

**Notice of Allowability**

Application No.

09/386,057

Examiner

Richard Woo

Applicant(s)

RUFFIN ET AL.

Art Unit

3639

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 04-25-2005 and telephone interview (06-17-05).
2. ☒ The allowed claim(s) is/are 15-22 and 24-29.
3. ☒ The drawings filed on 19 February 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **REASONS FOR ALLOWANCE**

- 1) The following is an examiner's statement of reasons for allowance:

The instant invention is deemed to be directed to an unobvious improvement over the invention patented in US Patent Nos. 5,745,880 (Strothmann) and 6,086,618 (Al-Hilali et al.).

As for Claim 15, Strothmann discloses a program storage device readable by a digital processing apparatus and tangibly embodying a program of instructions executable by the processing apparatus to perform method steps, the method steps comprising:

providing information on economical viability for a first computer platform prior to moving the migration; determining a cost for hardware (e.g. CPU, memory, etc...) and software for the first computer platform and a second computer platform; determining an amount of functions to be migrated from the first platform to the second platform; and deriving a cost for the first computer platform after the migration and for the second computer after the migration.

Al-Hilali et al. teaches a program storage device including the instructions to perform method for estimating total resource usage requirement for any particular server applications (any computer platform that a system administrator wishes to monitor) and deriving a cost and capacity measurement based on the information on the usage for a particular computer platform.

However, Strothmann and Al-Hilali et al., in combination or alone, do not teach or expressly suggest the program storage device including the instructions to perform the method step of: combining the usage information and the determined required processing capacity to produce a first value for the capacity and cost associated with the first computer platform, and a second value for the capacity and cost associated with the second computer platform, as well as a total value for capacity and total cost associated with the aggregate of the first and second computer platform.

As for Claim 29, Strothmann discloses a system comprising:

a storage base for providing information on economical viability for a first computer platform prior to moving the migration;

means for determining a cost for hardware (e.g. CPU, memory, etc...) and software for the first computer platform and a second computer platform;

means for determining an amount of functions to be migrated from the first platform to the second platform; and

means for deriving a cost for the first computer platform after the migration and for the second computer after the migration.

Al-Hilali et al. teaches a system including means for estimating total resource usage requirement for any particular server applications (any computer platform that a system administrator wishes to monitor) and deriving a cost and capacity measurement based on the information on the usage for a particular computer platform.

However, Strothmann and Al-Hilali et al., in combination or alone, do not teach or expressly suggest the system including: means for combining the usage information and the determined required processing capacity to produce a first value for the capacity and cost associated with the first computer platform, and a second value for the capacity and cost associated with the second computer platform, as well as a total value for capacity and total cost associated with the aggregate of the first and second computer platform.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

2) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

"Products, Applications and Tips for Government Users" is cited to show a cost associated with an exemplary migration of computer platforms and comparisons of cost of migration with other costs.


"Unix: Is It Open, Is It Cheap?" is cited to show cost data regarding the migration wherein the hardware upgrades account for 31% of the cost, new software 22%.

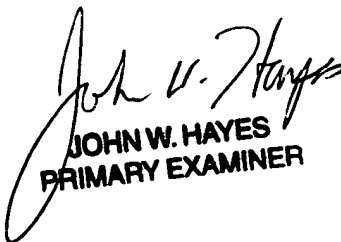
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 571-272-6813. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Richard Woo  
Patent Examiner  
Art Unit 3639  
June 22, 2005

  
JOHN W. HAYES  
PRIMARY EXAMINER